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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,957	11/26/2001	Michael P. Caren	10990640-2	7830

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EXAMINER

SIEW, JEFFREY

ART UNIT PAPER NUMBER

1637

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*S.M.*

## Office Action Summary

### Application No.

10/059,957

### Applicant(s)

CAREN ET AL.

### Examiner

Jeffrey Siew

### Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-15 is/are allowed.
- 6) ☒ Claim(s) 1-9, 16, 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Barth et al (US6,461,812 Oct 8, 2002).

Barth et al teach method of loading a dispensing head with biopolymer comprising a dispensing head with reservoir chamber and multiple jets, loading fluid in reservoir and then delivery chamber (see whole doc. esp. abstract, col. 6 line 27, col. 9 line 40-52).

The response filed 12/5/03 has been fully considered and deemed not persuasive. The response states that Barth et al do not teach the method of loading through the exit end of the orifice. The term exit end reads broadly and is interpreted to mean the loading through orifice. Barth et al do teach loading through the orifice (see claim 56). Moreover, the response further states that figures 3A-3C only refer to single reservoir and in this embodiment the reservoir is only in communication with one delivery chamber and one orifice and would not be possible to load a fluid into a reservoir through one of the orifices. The terms delivery chamber and reservoir read broadly (see items 57,58,59,63). The term communicating reads broadly to encompass

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Barth et al's chamber 63 and loading fluid through chamber 63 into chamber 59. The rejection is maintained.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 16 & 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes et al (US5,658,802 august 19, 1997) in view of Burke et al (US5,300,958 April 5, 1994).

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Hayes et al teach an apparatus for printing arrays consisting of DNA. They teach that drops to substrate surface from dispensing device that is positioned by a positioning support on a XY table (see abstract). The device comprises an electromechanical transducer as shown in Figure 1 & 2. A Nozzle with an outlet extends from the ejector transducer and is in communication with reservoir chamber 42 (see col. 3 line 64- col.4 line 24). The positioning support causes relative movement of device 30 and substrate 80. The positioning support is controlled by a controller 70 (see col.5 line 16). Hayes et al provides a fluid handling system comprising reagent reservoirs that load head with fluid (see col. 6 lines 1 & 2). Moreover the fluid handling system 50 provides solenoid valves and sources of atmospheric pressure, positive pressure and negative pressure (see col. 6 line 57-65). They teach a purging system (see col. 6 line 18-26).

Hayes et al do not teach a cleaning station.

Burke et al teach a service station that cleans an inkjet head and pad (see whole document esp. abstract).

One of ordinary skill in the art would have been motivated to apply Burke et al's teaching of a cleaning station to Hayes et al apparatus in order to ensure proper printhead operation. Burke et al state that cleaning is critical to ensure proper cartridge operation, the orifice plate and openings must be kept clean and free of debris at all times (see col.1 line 34-35). It would have been prima facie to apply Burke et al's cleaning station to Hayes et al's inkjet in order to ensure proper bioarray fabrication.

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The response filed 12/5/03 has been fully considered and deemed not persuasive. The response states that neither prior art teach the new limitation of purge station. Hayes et al do teach a purging system (see col. 6 line 18-26). The rejection is maintained.

### SUMMARY

4. Claims 10-15 are allowable. There is no prior art that teach the method using dispenser head with reservoir chamber , multiple jets including a delivery chamber communicating with reservoir chamber and orifice and ejector and cleaning station.

### CONCLUSION

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

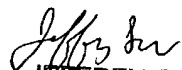
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Siew whose telephone number before January 22, 2003 is (703) 305-3886 and thereafter can be reached at 571-272-0787. The e-mail address is Jeffrey.Siew@uspto.gov. However, the office cannot guarantee security through the e-mail system nor should official papers be transmitted through this route. The examiner is on flex-time schedule and can best be reached on weekdays from 6:30 a.m. to 3 p.m. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Gary Benzion, can be reached on (703)-308-1119.

Any inquiry of a general nature, matching or filed papers or relating to the status of this application or proceeding should be directed to the Tracey Johnson for Art Unit 1637 whose telephone number is (703)-305-2982.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Center numbers for Group 1600 are Voice (703) 308-3290 and FAX (703)-308-4242.

  
JEFFREY SIEW  
PRIMARY EXAMINER

February 22, 2004